

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
(U 39-E) for Adoption of its 2006 Energy Resource
Recovery Account (ERRA) Forecast Revenue
Requirement and for Approval of Its 2006
Ongoing Competition Transition Charge
Revenue Requirement and Rates.

Application 05-06-007
(Filed June 1, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING THE MOTION TO SUBMIT AN OFFER OF PROOF BUT
DENYING THE REQUEST TO CONSIDER ENERGY SUPPLIER REFUNDS**

On August 10, 2005, Californians for Renewable Energy (CARE) filed a motion for leave to submit an "offer of proof" consisting of an order issued by the Federal Energy Regulatory Commission (FERC) regarding refunds that energy suppliers may owe to Pacific Gas and Electric Company (PG&E) and others for price gouging during the energy crisis of 2000 - 2001.¹ The purpose of the offer of proof is to show that the Commission should establish a mechanism in the instant proceeding to pass through such refunds to PG&E's ratepayers.

The motion for leave to submit an offer of proof is granted. However, the request to establish a mechanism in this proceeding to pass through FERC-ordered refunds to PG&E's ratepayers is denied. PG&E is already required by Decision (D.) 04-11-015 to pass-through such refunds to its ratepayers. There is

¹ See 2005 FERC LEXIS 2122.

no need to revisit this matter.² This Ruling is being made pursuant to Rule 45(h) of the Commission's Rules of Practice and Procedure (Rule), which allows an Administrative Law Judge to rule on a motion before responses are filed.

CARE is welcome to monitor the status of FERC-ordered refunds received by PG&E.³ If PG&E fails to pass through the full amount of such refunds to its ratepayers, CARE may file a complaint pursuant to Rule 9 that alleges PG&E has not passed through the refunds as required by D.04-11-015.

² See D.04-11-015, *mimeo.*, pp. 20-22, 38-41, 54, 73 - 74 (Finding of Fact (FOF) 1), 78 (FOF 29), 82 (Conclusion of Law (COL) 18), and 100-101 (Ordering Paragraphs 3-5). D.04-11-015 authorized PG&E to issue Energy Recovery Bonds (ERBs) to refinance costs incurred by PG&E during the energy crisis, including exorbitant prices paid to electric power suppliers. D.04-11-015 also requires that any refunds PG&E receives from the power suppliers for price gouging be used to reduce the cost of the ERBs passed through to ratepayers.

³ D.04-11-015 requires PG&E to file two types of advice letters that affect the amount and timing of the energy supplier refunds flowed through to ratepayers. These are the Issuance Advice Letters and ERB Balancing Account Advice Letters. To monitor FERC-ordered refunds, CARE may wish to submit a request to PG&E to be placed on PG&E's e-mail service list for advice letters. PG&E's obligation to provide advice letters upon request is set forth in D.04-11-015, *mimeo.*, pp. 56 and 92 (COL 80), and D.05-01-032, *mimeo.*, pp. 6, 7, 21, A-5, A-6, and A-7.

IT IS RULED that:

1. The motion by the Californians for Renewable Energy (CARE) for leave to submit an “offer of proof” is granted.
2. The request by CARE to establish in the instant proceeding a mechanism for passing through to ratepayers any FERC-ordered refunds stemming from the energy crisis of 2000 - 2001 is denied.

Dated August 24, 2005, at San Francisco, California.

/s/ TIMOTHY KENNEY

Timothy Kenney
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Granting the Motion to Submit an Offer of Proof but Denying the Associated Request to Consider Energy Supplier Refunds on all parties of record in this proceeding or their attorneys of record.

Dated August 24, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.